

Officer Involved Shooting of Daniel Anthony Valdez

Los Angeles Police Department

Officer Jason Leikam #35730

Officer Jose Hidalgo #37533

FBI Special Agent Michael Alker

J.S.I.D. File #18-0337



JACKIE LACEY

District Attorney

Justice System Integrity Division

December 6, 2019

MEMORANDUM

TO: COMMANDER ROBERT E. MARINO
Los Angeles Police Department
Force Investigation Division
100 West First Street, Suite 431
Los Angeles, California 90012

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Daniel Anthony Valdez
J.S.I.D. File #18-0337
F.I.D. File #F049-18

DATE: December 6, 2019

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 7, 2018, fatal shooting of Daniel Anthony Valdez by Los Angeles Police Department (LAPD) Officers Jason Leikam and Jose Hidalgo, and Federal Bureau of Investigation (FBI) Special Agent Michael Alker. We have concluded that Officers Leikam, Hidalgo, and Special Agent Alker, acted in lawful self-defense and defense of others.

The District Attorney's Command Center was notified of the shooting at approximately 12:27 p.m., on August 7, 2018. The District Attorney Response Team (DART) responded to the location and was given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on investigative reports, audio recordings, transcripts of interviews, firearm analysis reports, the autopsy report, crime scene diagrams and sketches, photographic and video evidence, and witness statements submitted by LAPD Force Investigation Division (FID) Lieutenant James Antenucci. Compelled statements were considered as part of this analysis.

FACTUAL ANALYSIS

Daniel Anthony Valdez, who was 70 years old, had been living in a travel trailer on Long Beach Avenue in the City of Los Angeles, a business property owned by Jason R. On July 31, 2018, Jason R. evicted Valdez with the assistance of his friend, Jaime V. Officers from LAPD's Newton Patrol Division were asked to respond and stand by while Valdez removed his personal property from the location.

Approximately one hour later, Jason R. and Jaime V. were standing in front of the property when Valdez returned. Valdez exited his vehicle, drew a revolver, and shot both men. Valdez fled the scene in his white 1989 Toyota Camry. Jaime V. survived his injuries, but Jason R. succumbed to multiple gunshot wounds. A felony arrest warrant was issued for Valdez.

Newton Area Homicide Detective Jose Calzadillas assumed responsibility for the murder investigation. On Monday, August 6, 2018, Calzadillas met with LAPD Detective Jason Leikam and FBI Special Agent Scott Garriola – both members of the FBI LAPD Fugitive Task Force (FTF).¹ Leikam and Garriola agreed to assist in apprehending Valdez.

In the early morning hours of Tuesday, August 7, 2018, the FTF team learned that Valdez was using his Electronic Benefit Transfer (EBT) card in the area of 41st Street and Central Avenue. Leikam, along with FTF team members Chris Reckleff, Jorge Morales, Casey Cox, Jose Hidalgo, and Romeo Tamparong, converged on the area for a tactical briefing.² Each detective was provided a Department of Motor Vehicle printout complete with Valdez's photograph, physical descriptors, vehicle and registration information, a satellite image of the area where Valdez was believed to be located, a crime synopsis (including information about the murder weapon and firearms registered to Valdez), and Valdez's history of carrying a concealed weapon.

The team commenced searching for Valdez's vehicle in the immediate vicinity of the EBT hits. Tamparong located Valdez's vehicle in the Central Inn Motel parking lot and notified Leikam. In preparation for a move on Valdez, the team donned ballistic vests clearly identifying them as police. Morales and Tamparong remained undercover as part of a plan to pinpoint Valdez's location. Reckleff assumed responsibility as incident commander.

The Central Inn Motel is located on the northeast corner of Central Avenue and 41st Street in Los Angeles. See Figure 1 below. The motel is a two-story, 21 guest room facility with room doors that face inward toward the parking area.



Fig. 1: Central Inn Motel at the corner of 41st Street & Central Avenue

¹ The FTF is a task force consisting of LAPD detectives, FBI special agents, personnel from the California Department of Corrections and Rehabilitation (CDCR), and the Los Angeles County Probation Department (LACDP). The task force specializes in locating and arresting violent fugitives.

² Each of these named personnel are LAPD detectives. FBI special agents Scott Garriola and Michael Alker were separately briefed by phone.

The motel is accessed via the breezeway located on the 41st Street side. The breezeway leads into the motel parking lot. The management office and adjacent living quarters are on the ground floor adjacent to the right side of the breezeway. See Figure 2 below.



Fig. 2: Breezeway entrance to the Central Inn Motel parking lot.

Morales drove into the motel parking lot with Tamparong. Morales and Tamparong entered the motel office and spoke with the clerk, Janet M., who positively identified Valdez via photograph as a guest in room 203. Janet M. also confirmed that Valdez drove the white Toyota Camry located in the parking lot. Janet M. said that Valdez had been staying at the motel since July 31, 2018. She believed that Valdez was at that moment inside his room. Janet M. indicated that for the past week Valdez had a practice of coming to the office between 10:30 and 11:00 a.m. to pay for the ensuing night's stay.

Morales and Tamparong returned to their vehicle and drove back to the staging area. Morales provided the team with a rough sketch of the interior of the motel, including the position of Valdez's room and the location of the motel office. After discussing various tactical options, the FTF elected to apprehend Valdez in the parking area after he paid his bill and exited the office.³ Morales' and Tamparong's role in this plan was to position themselves inside the parking lot for observation and alert the team to move in or, if need be, to abort the operation should the risk of harm to civilians prove unacceptable. The plan called for the arrest team to move into the breezeway when Valdez entered the motel office, then await further notification.⁴

Reckleff made individual assignments to each team member. Leikam was to be at the front of the formation armed with a shotgun. Alker would follow armed with an FBI Colt M4 rifle. Hidalgo would be next, armed with a bean bag shotgun. Cox would be fourth in line armed with a Taser. Garriola would follow Cox and be responsible for handcuffing Valdez.

³ The team believed that waiting for Valdez to exit his room and conduct his business in the office would minimize the potential for escalation and decrease the likelihood of Valdez being armed.

⁴ The plan also covered other scenarios including the possibility of Valdez exiting his room, walking directly to his car, and driving out of the motel parking lot. If this occurred, the team would follow Valdez, and broadcast his location, and relinquish pursuit once uniformed officers arrived.

Reckleff would be in the rear coordinating the tactical operation and handling communications. Morales was designated as the final word to either initiate or abort the approach. Additionally, as part of their preparation team members were provided the Department's use of force and use of deadly force policies, as well as policies covering the use of the bean bag shotgun and Taser.

At approximately 10:30 a.m., Morales and Tamparong drove onto the motel property and backed into a parking stall in the southeast corner of the parking lot. Morales telephoned Janet M. in the motel management office. Janet M. agreed to monitor the motel video surveillance system and call Morales once Valdez stepped out of his room. Morales instructed Janet M. that when Valdez entered the office she should assist him with his business transaction as usual, then calmly walk toward the rear of the office suite and take cover while the FTF carried out its operation. Janet M. was told that police would not take any action while Valdez was in the office.

At approximately 10:58 a.m., Janet M. called Morales to say that Valdez had exited his room. Morales drove forward and parked along the north wall of the motel property where he had an unobstructed view of the parking area, motel rooms, stairwells, and the office. Morales and Tamparong could see Valdez as he stood on the ground floor near the trashcans. Morales exited the truck and placed an orange traffic cone to the rear of his vehicle giving the appearance that he was a construction worker. Tamparong remained seated in the passenger seat to continue broadcasting radio updates to the FTF team who were staged outside the motel. Morales advised Tamparong of a positive identification of Valdez. Tamparong relayed the confirmation and news that Valdez was walking toward the office.

At 11:01:08 a.m., Reckleff broadcast, "5K361 to control, Code-Six on a 187 Suspect, 4074 South Central, Central Inn Motel." Upon hearing Valdez was inside the office, the team moved into the breezeway and assembled along the east wall to await Valdez's exit from the office. See Figure 3 below showing team positioned inside the breezeway after Valdez entered the office.



Fig. 3: Arrest team stacked along the breezeway waiting for Valdez to exit the motel office.

Inside the motel office, Valdez conducted his transaction with Janet M. The motel office contains a window that faces the breezeway. At one point, Valdez glanced over through the window in the breezeway. Apparently startled by something he had seen, Valdez reached inside his left pants packet and drew a handgun, then turned towards the door. See Figures 4A and 4B below (images extracted from motel surveillance video).



Fig. 4A: Valdez apparently reacts to seeing the team outside.



Fig. 4B: A moment later, Valdez dropped his sunglasses as he pulled a pistol from his left pocket. The trigger and trigger guard are visible under Valdez's left armpit.

As Valdez turned towards the door, he transitioned the revolver from his left to his right hand, and exited the office. See Figure 5 below.



Fig. 5: Valdez exiting the office with a revolver in his right hand.

Morales and Tamparong saw Valdez opening the office door. Tamparong immediately broadcast Valdez's movement to the arrest team, but neither Morales nor Tamparong saw the pistol in Valdez's hand at that time. Valdez exited the office, turned toward the arrest team, and pointed the firearm at them. At 11:02:11 a.m., as Reckleff was broadcasting to dispatch, Valdez began shooting. The sound of Valdez's gunfire was captured on dispatch recording. Tamparong reported that Valdez fired two rounds in rapid succession at the officers stacked along the breezeway wall. It took Valdez about three seconds to exit the office and commence firing at the team. See Figures 6A and 6B below.



Fig. 6A: Valdez pointing the pistol at team in the breezeway.

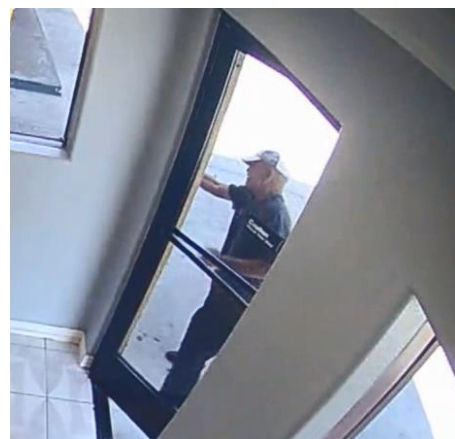


Fig. 6B: Valdez advances with his weapon aimed at the FTF team.

Motel surveillance video captured a muzzle flash from Valdez's pistol as he fired. See Figure 7 below.



Fig. 7: Muzzle flash is visible from the end of Valdez's pistol.

As depicted in Figures 8A and 8B below, Valdez acquired a two-handed shooting stance during the exchange of pointblank gunfire with the FTF team.



Fig. 8A: Valdez is visible through the office door on the right aiming his pistol at the arrest team. Leikam (wearing black) is visible through the window facing the breezeway. Leikam fired his first shotgun round from approximately this position.



Fig. 8B: Leikam fired a second round a moment later; Valdez began to drift back.

Alker's left hand was knocked from his rifle by a round Valdez fired. The round struck Alker in the left wrist.⁵ Despite being wounded, Alker immediately reacquired his weapon and engaged Valdez. Evidence confirmed that Alker fired seven rounds at Valdez.

Another round fired by Valdez struck the tactical light affixed to the left side of Leikam's shotgun barrel. The third round fired by Valdez struck the wall directly behind Leikam. Post-shooting investigation confirmed that Valdez fired a total of three rounds.

[REDACTED]

⁵ Motel surveillance video captured Alker's hand being knocked from his weapon.

Motel surveillance video footage corroborates that Valdez stood and either fired or tried to fire at the team during each of Leikam's first three shotgun rounds. [REDACTED]

[REDACTED] Leikam fired a total of five shotgun rounds at Valdez from a Benelli semiautomatic shotgun as Leikam moved to his left away from the wall and out into the parking lot, from an increasing distance of eight to eighteen feet from Valdez. See Figures 9A through 9C below depicting Leikam's likely firing positions⁶ for each round.

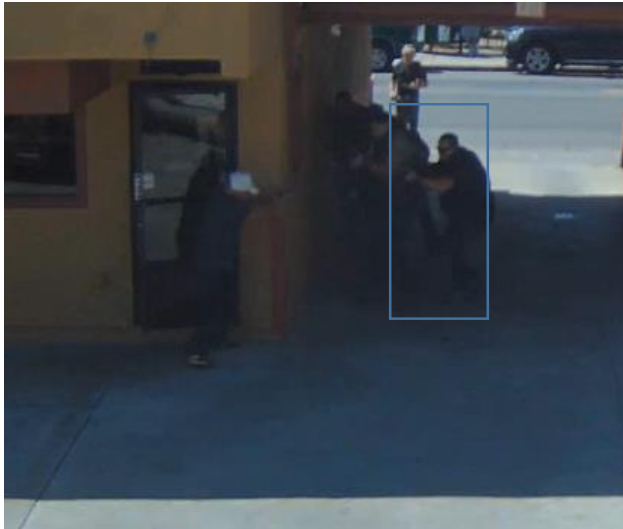


Fig. 9A: Leikam's likely position when firing first shotgun round.

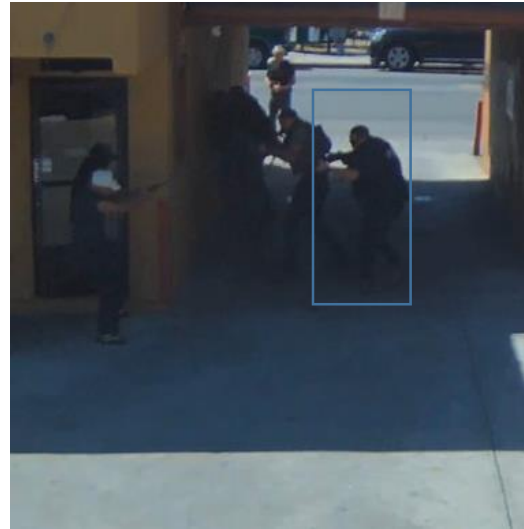


Fig. 9B: Leikam's likely position when firing second shotgun round



Fig. 9C: Leikam's likely position when firing third shotgun round

⁶ Positions were identified based on observable weapon recoil or gun smoke, indicative of shotgun discharge.

Leikam fired his five shotgun rounds in approximately two to three seconds. Valdez reacted noticeably to the last two rounds; Valdez fell backwards, turned as he fell, and appeared to brace his fall with his hands. See Figures 10A and 10B below. The pistol flew from Valdez's hand as Valdez fell onto his stomach. The pistol landed approximately 11 feet away.



Fig. 10A: Leikam's likely position when firing the fourth shotgun round as Valdez fell backwards and lost his footing. Alker is visible in the middle of the breezeway (bounded by the white rectangle).

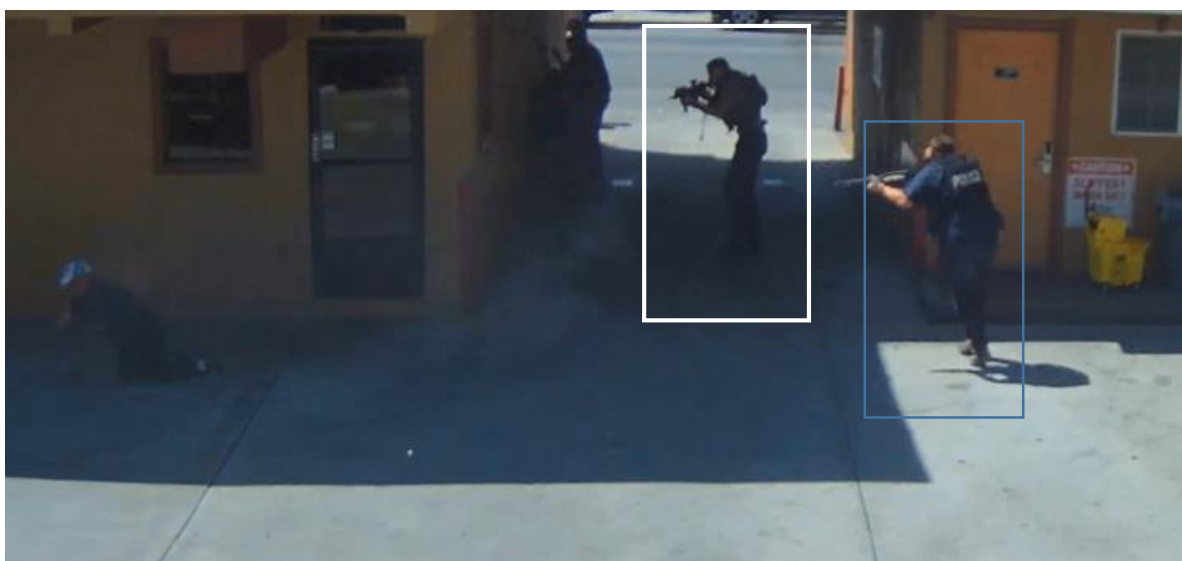


Fig. 10B: Leikam's likely position (bounded by blue rectangle) when firing the fifth shotgun round as Valdez roles to his front to brace his fall. Alker is bounded by the white rectangle.

Leikam let the shotgun fall to its neck-slung position after emptying the tube, then transitioned to his pistol which he drew with his right hand while continuing to move to his left. See Figures 11A and 11B below. Alker disengaged and fired no additional rounds. As Leikam transitioned, Valdez continued to move. Valdez's right leg momentarily bent at the knee and rolled up over his left leg, consistent with an attempt to roll over. Hidalgo, who emerged from the breezeway, can be seen in Figure 11B with his pistol aimed at Valdez.



Fig. 11A: Leikam (bounded by the blue rectangle) begins transition. Valdez's right leg (bounded by the yellow circle) bends at the knee and rolls up over his left leg.



Fig. 11B: Leikam continues transition to his handgun (bounded by the blue rectangle). Valdez's right leg continues to move. Hidalgo near the edge of breezeway (bounded by the red rectangle and wearing Khaki colored pants) can be seen engaging Valdez.

[REDACTED]

After drawing his pistol, Leikam acquired a two-handed shooting posture, shuffled laterally, and within a space of two seconds fired three pistol rounds towards Valdez, who lay face down on the pavement. Figures 12A through 12C below show Leikam's approximate positions as he discharged each of three pistol rounds. Hidalgo is also visible in each of these three frames in a shooting stance at the edge of the breezeway. Hidalgo's pistol recoil was visible in the video footage during his engagement of Valdez.



Fig. 12A: Leikam's approximate position when firing the first pistol round. Hidalgo is bounded by the red rectangle



Fig. 12B: Leikam's approximate position (bounded by the blue rectangle) when firing the second pistol round. Hidalgo is bounded by the red rectangle.



Fig.12C: Leikam’s approximate position (bounded by the blue rectangle) when firing the third pistol round. Hidalgo is bounded by the red rectangle.

Leikam fired his last shot approximately two seconds after Valdez’s right leg dropped back to the pavement. Hidalgo appeared to fire his last round a moment later. As part of its own investigation, LAPD’s Force Investigation Division prepared a timeline of rounds fired. See Figure 13 below.

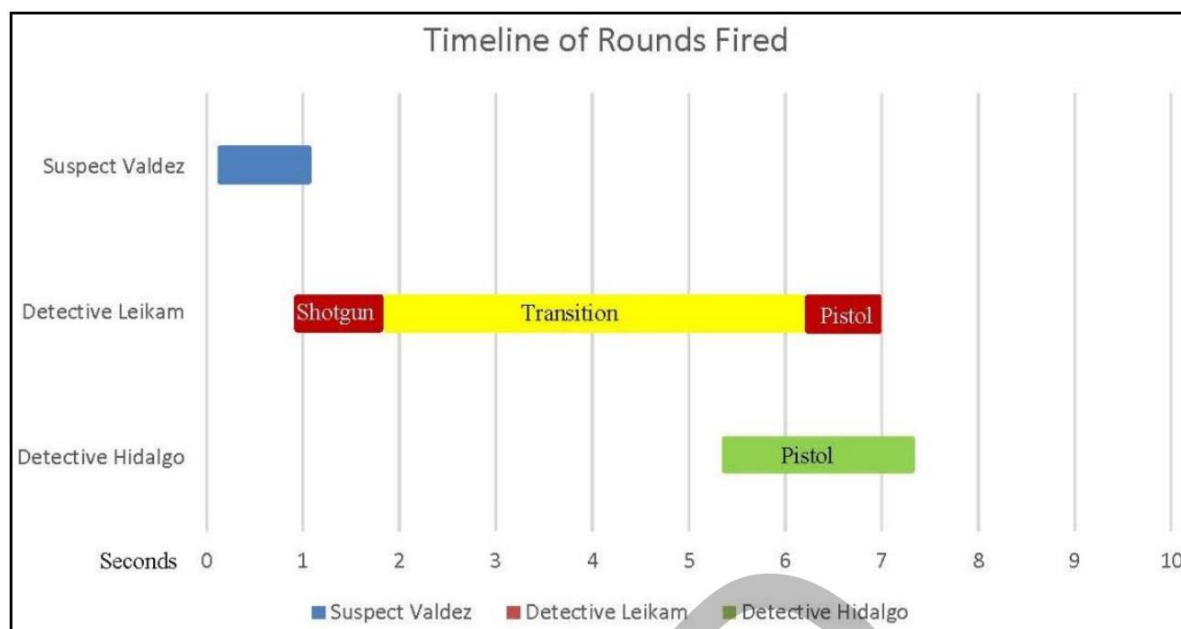


Fig. 13: Timeline of the rounds fired, as prepared by LAPD Force Investigation Division.

[REDACTED]

[REDACTED]

[REDACTED]

At 11:02:29 a.m., Detective Reckleff broadcast, "Shots fired, Officer Needs Help, shots fired. I have one Officer hit. I need an RA unit ASAP. 5K361 Officer Needs Help, 4074 South Central."

Cox drew his duty weapon but was positioned in the breezeway and unable to engage Valdez. As the shooting subsided, Cox moved forward until he could peer around the corner and was able to see Valdez on the ground. Cox stated that Valdez's right arm was underneath Valdez's body, a fact that was significant to Cox because the team was aware that Valdez had a second registered firearm— a smaller .38 caliber weapon.⁷ Cox advised Hidalgo to holster his pistol and handcuff Valdez while Cox and Leikam covered Valdez with their pistols. Hidalgo proceeded to handcuff Valdez, and as he did so Hidalgo noticed Valdez's revolver laying on the ground.

After Valdez was handcuffed, FTF members turned their attention toward Valdez's motel room.⁸ FTF members directed other uniformed personnel arriving on scene to conduct a sweep of the room. No additional suspects were located. The room was secured pending a search warrant for evidence related to their murder investigation.

At 11:12:57 a.m., with the motel secured, LAFD personnel attended to Valdez. Valdez did not respond to emergency treatment. Firefighter Paramedic August Weideman declared Valdez deceased on scene at 11:15 a.m.

⁷ [REDACTED]

⁸ According to Reckleff, the Los Angeles Fire Department (LAFD) personnel would not enter the motel until the motel property, including Valdez's room, was determined to be safe.

Alker sustained a gunshot wound to his left wrist during the firefight. A LAFD Rescue Ambulance transported Alker to the Los Angeles County University of Southern California Medical Center (LAUSCMC), where Alker was treated for a fractured left wrist.

A post-mortem medical examination was conducted by Los Angeles County Department of Coroner Deputy Medical Examiner Dr. Lawrence Nguyen on August 15, 2018. Dr. Nguyen concluded that Valdez's death was caused by multiple gunshot wounds. Valdez sustained a total of 19 gunshot wounds, three of which were deemed to be immediately life threatening. In total, seven projectiles were recovered by Dr. Nguyen during the autopsy and booked into evidence. Of these, two projectiles were determined by firearms analysis to display characteristics similar to test fires from Leikam's pistol. Five projectiles displayed characteristics similar to test fires from Hoidalgo's pistol. Toxicological analysis determined that there was no evidence of alcohol or drugs in Valdez's blood at the time of his death.

A gunshot residue kit was completed on Valdez. Trace analysis concluded that Valdez had five or more particles characteristic of gunshot residue on his hands and face. The presence of such residue indicates that the person either discharged a firearm, was in the vicinity of a firearm discharge, or touched a surface containing gunshot residue.

During the shooting, Valdez was armed with a six-shot Left Arms Destroyer, .38 special green revolver with wooden grips. The revolver had a barrel length of five inches. When recovered, the hammer was in the down position. The cylinder contained three live cartridges and three discharged cartridge casings. This evidence was consistent with Valdez having fired three rounds during the engagement. See Figures 13A and 13B below.



Fig. 13A: Valdez's revolver

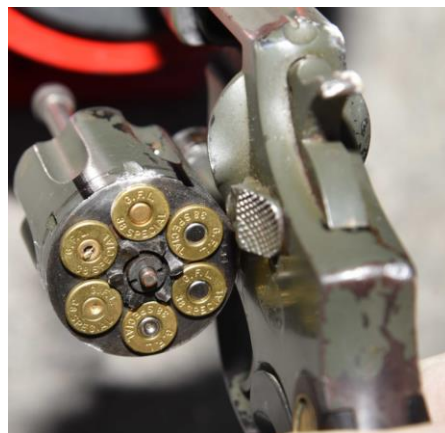


Fig. 13B: Cylinder containing three struck casings and three live rounds.

Evidence from the murder investigation of Jason R. and attempted murder of Jaime V. indicates that Valdez likely used a .38 caliber revolver to commit those crimes – the same type of weapon wielded during his confrontation with the FTF. However, evidence provided this office did not definitively establish that the pistol collected from the Central Inn Motel was the murder weapon used by Valdez in the underlying case.

Leikam was armed with a Department issued, 12 gauge Benelli M4 semiautomatic shotgun.

████████████████████ The five expended shotgun shells collected during scene processing were consistent with Leikam having fired a total of five shotgun rounds during the incident.

Leikam was also armed with a blue steel .45 caliber Springfield 1911 semiautomatic pistol. Three shell casings collected at the scene were later determined to have been ejected from Leikam's pistol. These findings were consistent with Leikam firing a total of three rounds from his pistol during the incident.

Hidalgo was armed with a .45 caliber Glock 30 semiautomatic pistol. Seven shell casings collected at the scene were later determined to have been ejected from Hidalgo's pistol. The investigation findings were consistent with Hidalgo firing a total of seven rounds during the incident.

Criminalists who examined the scene identified 23 impacts from firearm projectiles and 23 corresponding pathways, many of these consistent with rounds fired by law enforcement personnel. However, two of the pathways were identified as impacts on the west wall of the breezeway consistent with Valdez having fired his pistol toward members of the arrest team. In addition, one fired bullet recovered from the scene was determined to have been fired from Valdez's revolver. A recovered fragment was also determined to have been fired from Valdez's revolver.

Personnel assigned to the FTF were not equipped with BWV at the time of this incident, but the operation was captured on motel surveillance footage.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if the person claiming the right actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; *People v. Randle* (2005) 35 Cal.4th 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also*, CALCRIM No. 505. In evaluating whether a police officer's use of force is reasonable, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations: "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight. . . . The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code § 835a. An officer "may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him." *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146. A killing of a suspect by a law enforcement

officer is lawful if it was: (1) committed while performing a legal duty; (2) the killing was necessary to accomplish that duty; and (3) the officer had probable cause to believe that (a) the decedent posed a threat of serious physical harm to the officer or others, or (b) that the decedent had committed a forcible and atrocious crime. CALCRIM No. 507, Penal Code § 196. A forcible and atrocious crime is one which threatens death or serious bodily harm. *Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 333.

In protecting oneself or another, a person may use all the force which that person believes reasonably necessary and that would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appear to be imminent. CALCRIM No. 3470. If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

An officer has "probable cause" in this context when he knows facts which would "persuade someone of reasonable caution that the other person is going to cause serious physical harm to another." CALCRIM No. 507. When acting under Penal Code § 196, the officer may use only so much force as a reasonable person would find necessary under the circumstances. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1147. The officer may only resort to deadly force when the resistance of the person being taken into custody "appears to the officer likely to inflict great bodily injury on himself or those acting with him." *Id.* at 1146; quoting *People v. Bond* (1910) 13 Cal.App. 175, 189-190. In *Plumhoff v. Rickard*, (2014) 572 U.S. 765, a case involving a defense of qualified immunity to a civil rights claim brought by family members of a deceased shooting victim, the United States Supreme Court noted, "It stands to reason that, if police are justified in firing at a suspect in order to end a severe threat to public safety, the officers need not stop shooting until the threat has ended."

The prosecution has the burden of proving beyond a reasonable doubt that a killing was not justified. CALCRIM Nos. 505, 507. As noted by one California appellate opinion, "[w]here the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety." *People v. Collins* (1961) 189 Cal.App.2d 575, 589.

The evidence examined in this investigation shows that Valdez murdered Jason R. and attempted to murder Jaime V. Investigators located Valdez hiding in a motel. The FTF then formulated a plan to arrest Valdez for the crimes. As the team attempted to take Valdez into custody, Valdez became aware of their presence and opened fire without provocation or justification. One of the team members was shot by Valdez and sustained a serious bodily injury. All of the officers' lives were placed in immediate and extreme danger. Team members were justified in resorting to deadly force.

[REDACTED]

[REDACTED] Given what had just occurred, there was no mistaking Valdez's willingness to make use of a weapon.

[REDACTED]

The officers were at the Central Inn Motel to arrest Valdez for the forcible and atrocious crime of murder, which entitled them to use deadly force to accomplish their duty if the situation rendered it necessary. Valdez drawing a loaded firearm and pointing it at the officers made such force necessary. Further, Valdez's discharging the firearm at point blank range towards the officers meant that their use of deadly force was essential to survival.

CONCLUSION

We find that Officers Leikam and Hidalgo, and Special Agent Alker, acted lawfully in self-defense and defense of others when they used deadly force against Daniel Anthony Valdez. We are closing our file and will take no further action in this matter.